

Board of Respiratory Care Minutes

Date: November 10, 2011

Time: 9:00 C.S.T.

Location: Iris Conference Room, Ground Floor
227 French Landing Drive
Heritage Place, Metro Center
Nashville, TN 37243

Members Present: Candace Partee RRT, Chair
Roger Major, RRT, Secretary
Ray Davis, RRT
Gene Gantt, RRT
Delmar Mack, RRT, Ed.D
Brian Cook, Hospital Administrator
Teresa Hatcher, Consumer Member

Member Absent: Jeffrey McCartney, M.D.

Staff Present: Marva Swann, Board Director
Mary Webb, Board Administrator
Mona Jean-Baptiste, Assistant General Counsel

Guests Present: Mike Harkreader, Tennessee Professional Assistance Program
David Johnson, Tennessee Society for Respiratory Care
John Williams, Attorney, Tennessee Society for Respiratory Care

Rulemaking Hearing

A rulemaking hearing was held regarding amendments to Rule 1330-01-.24, ENDORSEMENT OF RESPIRATORY THERAPISTS TO PROVIDE POLYSOMNOGRAPHIC SERVICES (THIRD PATHWAY). Rule 1330-01-.24 is amended by deleting part (1)(c) 3 but not its subparts, and substituting instead the following language, so as amended, the new part (1)(c) 3 shall read:

3. Proof of completion of the Sleep Center or Sleep Lab Competency Checklist, as approved by this Board, signed by both the director of the sleep lab and the medical director from a current employing facility, verifying that an individual certified as a respiratory therapist has obtained a minimum of five hundred and four (504) hours in a sleep center or sleep laboratory or that an individual registered as a respiratory therapist has obtained a minimum of two hundred and fifty-two (252) hours in a sleep lab or sleep center, and outlining competency relative to the following topics, which include, but are not limited to:

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Authority: T.C.A. §§ 63-31-107 and 63-27-104.

Comments from the public:

A. Kelly A. Cardene, M.D.

Dr. Cardene opposes the third pathway to licensure to perform polysomnographic services by respiratory therapists.

B. Brevard Haynes, M.D. Member of Tennessee Sleep Society

Dr. Haynes expressed concern that proof of completion of competency checklist is not required to be performed in an accredited sleep center.

C. Walter Holland, LPT, Tennessee Sleep Society Representative

Mr. Holland is in favor of the increase in training hours but is concerned that the checklist does not represent an objective proof of competency.

D. Paul Anderson, LPT

Mr. Anderson is in favor of the increased training hours for the third pathway; however, he expressed concern regarding the type of facility at which the training would take place.

E. Colleen Schabacker, RRT

Ms. Schabacker opposed the increased hours required for respiratory therapists to be licensed as LPT's by the third pathway. She stated that Tennessee respiratory therapists have been providing polysomnographic services safely for decades under their scope of practice and that the BRPT has exempted respiratory therapists from any additional training in order to take the licensure examination.

F. David Johnson, RRT, Legislative Chair for Tennessee Society for Respiratory Care

Mr. Johnson stated that the TSRC was in favor of the proposed amendment to increase training hours for respiratory practitioners being credentialed by the third pathway.

G. Burke L. Mays, Mays & Associates Sleep Disorder Testing, Inc

Burke Mays, President and CEO of Mays & Associates Sleep Disorder Testing, Inc, submitted a letter to the Board opposing the training of polysomnographic technologists in an accredited sleep center rather than in the healthcare centers where they are employed due to an alleged hardship for persons who work in a rural facility.

After discussion, Mr. Gantt made a motion seconded by Dr. Mack to approve the rule as amended. The motion passed by roll call with all members voting to approve. Mr. Gantt made a motion seconded by Mr. Davis to inform licensees of the current rules governing the practice of polysomnography for respiratory therapists. The administrative office was directed to send out a post card to all active licensees regarding rule 1330-01-.24.

Ms. Jean-Baptiste presented the Economic Impact Statement on small businesses for the Board's adoption. Mr. Gantt made a motion to delete #3 and #4 on the proposed economic statement due to not being able to determine the economic impact on small hospitals and rural establishments with the passage of this rule amendment. Dr. Mack seconded the motion. The motion passed by roll call vote with all members voting to approve.

Ms. Jean-Baptiste presented the Regulatory Flexibility Analysis for the Board's approval. Mr. Cook made a motion seconded by Dr. Mack to approve the Regulatory Flexibility Analysis as presented. The motion passed by roll call vote with all members voting to approve.

Office of General Counsel

Rules Discussion

The Board is concerned that a licensee who has been out of practice for an extended period may need to show their competence to return to work. The Board discussed reducing licensure fees now that the Board has a substantial monetary reserve. To address these concerns Ms. Jean-Baptiste presented a draft for proposed rule changes to amend Rule 1330-01-.05. (m) relative to Qualifications and Procedures for Licensure and Rule 1330-01-.06 (d) relative to licensure renewal fees. Ms. Jean-Baptiste suggested rather than a new rule for those persons who have not practiced, the Board consider adopting a policy for reinstatement of a lapsed license with requirements for various lengths of time that the licensee has been out of practice in order to be reinstated. Dr. Mack made a motion seconded by Mr. Cook to place this item on the agenda of the February meeting for further discussion. The motion carried.

Litigation

OGC currently has eight (8) open disciplinary cases pertaining to the Board of Respiratory Care of which the following five (5) were presented to the Board for review and disciplinary consideration.

1. Case No.: RBS-201002767

The pending matter is relative to a violation of 63-27-112(a)(2): Immoral, unethical, unprofessional or dishonorable conduct. The current action alleges that the Respondent, while employed at Marshall Medical Center, evaluated the child of a co-worker and provided supplies for a breathing treatment without a physician's order. The child was not evaluated by a physician prior to or after the breathing treatment was administered. The child was never admitted to the ER as a patient. No documentation was made of the treatment being administered to the child. Respondent was terminated from employment after the facility's investigation.

Prior discipline: None;

OGC Recommendation: Letter of Reprimand/ Warning

After discussion, Mr. Gantt made a motion seconded by Mr. Davis to send a letter of warning to licensee. The motion carried.

2. Case No.: 201100669

The current action alleges that the Respondent ordered equipment/ supplies through his work place. Respondent's employer had not received the equipment/ supplies nor provided payment. Respondent later submitted reimbursement for the equipment/ supplies through his flexible spending account with the company. Respondent admitted to ordering the equipment/ supplies and fraudulently requesting reimbursement through his flexible spending account. Respondent used the monies for other purposes and admitted that he had done the wrong thing. Respondent was terminated from employment from the facility.

Prior discipline: none

OGC Recommendation: Closed [No Violation]

After discussion, a motion was made by Mr. Cook and seconded by Mr. Major to accept this proposal as presented. The motion carried.

3. Case No.: RBS- 201101614

The pending matter is relative to a violation of a 2010 Board Order. The current action alleges that Respondent failed to comply with her 25 June 2010 Consent Order, requiring that Respondent obtain and maintain the advocacy of TnPAP for a period of no less than three years as well as update the Board with quarterly reports detailing Respondent's compliance with the terms of the TnPAP contract; notify the Disciplinary Coordinator of any violation of the TnPAP contract; comply with all TnPAP recommendations and maintain one hundred (100%) compliance with her contract. Respondent's license was also placed on Probation for a period of no less than five (5) years from date of TnPAP contract. On or about August 11, 2011, Respondent notified TnPAP that she was withdrawing from the program. TnPAP's records will support a failure to comply.

Prior discipline: Consent Order, 25 June 2010;

OGC Recommendation: Revocation.

Dr. Mack made a motion seconded by Mr. Davis to accept the proposal as presented. The motion carried.

4. Case No.: RBS- 201101671

The pending matter is relative to a violation of a 2010 Board Order. The current action alleges that Respondent failed to comply with her 19 August 2010 Consent Order, requiring that Respondent obtain the advocacy of TnPAP for a period of no less than sixty (60) months as well as update the Disciplinary Coordinator with quarterly reports detailing Respondent's compliance with the terms of the TnPAP contract; notify the Disciplinary Coordinator of any violation of the TnPAP contract; comply with all TnPAP recommendations and maintain one hundred (100%) compliance with her contract. Respondent's license was also suspended for a period of not less than thirty (30) days and/ or until Respondent maintained TnPAP advocacy. Upon Respondent maintaining TnPAP advocacy, her respiratory care license shall immediately be placed on Probation for a period of not less than five years and or until Respondent fulfilled all necessary requirements. On 15 August 2011, Respondent notified TnPAP that she was no longer interested in enrollment. TnPAP's records will support a failure to comply.

Prior discipline: Consent Order, 19 August 2010;

Recommendation: Revocation.

Mr. Cook made a motion seconded by Mr. Gantt to approve the proposal as presented. The motion carried.

5. Case No.: RBS- 201101672

The pending matter is relative to a violation of a 2010 Board Order. The current action alleges that Respondent failed to comply with his 4 February 2010 Consent Order, requiring that Respondent obtain and maintain the advocacy of TnPAP for a period of no less than five (5) years as well as update the Disciplinary Coordinator with quarterly reports detailing Respondent's compliance with the terms of the TnPAP contract; notify the Disciplinary Coordinator of any violation of the TnPAP contract; comply with all TnPAP recommendations and maintain one hundred (100%) compliance with her contract. Respondent's license was also placed on Probation for a period of no less than five (5) years or until Respondent obtained and maintained TnPAP advocacy. On 25 January 2011, toxicology specimen provided by Respondent was positive for ETOH. On 25 July 2011, toxicology specimen provided by Respondent was positive for ETOH. On 19 August 2011, Respondent presented for an evaluation which recommended Respondent to enter and complete a long term impaired professional A&D treatment program. Respondent informed TnPAP that he is unable to adhere to the recommendation. TnPAP withdrew advocacy. TnPAP's records will support a failure to comply.

Prior discipline: Consent Order, 4 February 2010;

Recommendation: Revocation.

Mr. Major made a motion seconded by Mr. Davis to approve the proposal as presented. The motion carried.

Consent Order

Ms. Jean-Baptiste presented a Consent Order on Tony Lee Curd, CRT for unprofessional conduct. Mr. Curd was formally reprimanded in addition to being required to obtain an additional ten (10) continuing education credits relative to patient safety within one hundred eighty (180) days of the ratification of this Consent Order. He must also pay the costs of this action. Mr. Cook made a motion seconded by Dr. Mack to approve the Consent Order as presented. The motion carried.

Approval of Minutes

Ms. Hatcher made a motion seconded by Mr. Davis to approve the minutes of the August, 10, 2011 meeting as amended. The motion carried.

Investigation and Disciplinary Reports

Juanita Stone, Disciplinary Coordinator, presented the Investigative and Disciplinary reports. There are no RRT complaints and one (1) CRT complaint currently being investigated. There are ten (10) RRT's, thirteen (13) CRT's, one (1) CRA and one (1) unlicensed individual currently being monitored following Board disciplinary action.

Tennessee Professional Assistance Program Report

Mike Harkreader, Representative of Tennessee Professional Assistance Program (TnPAP), submitted the report for the period of July 1, 2011 through October 26, 2011. Five (5) practitioners are currently being monitored. There was one (1) referral from the Board. This referral was made for a history of arrest. This referral was evaluated and rejected recommendations resulting in the TDOH being notified on 9/21/11.

Applicant Interview/File Review

- A. **Thomas Donato**—Mr. Donato is seeking licensure as a registered respiratory therapist by reciprocity. He appeared before the Board due to a misdemeanor conviction. After interview and discussion, Dr. Mack made a motion seconded by Mr. Davis to license Mr. Donato pending a favorable review from TnPAP. The motion carried.
- B. **Jason Perdue**—Mr. Perdue was not present. He is seeking licensure as a respiratory therapist by reciprocity from Kentucky. Mr. Perdue was disciplined by the Kentucky Board of Respiratory Care and is currently on probation and being monitored by the Kentucky Professionals Recovery Network. He has indicated to Ms. Webb that he does not wish to be licensed in Tennessee if the Board chooses to mirror the disciplinary action of Kentucky by referring him to TnPAP. As it would be the Board's inclination to refer Mr. Perdue to TnPAP, Mr. Cook made a motion seconded by Mr. Major to offer him the option of withdrawing his application without adverse consequences. The motion carried.

Correspondence/Discussion

- A. **EMS Ventilator Training**—Mr. David Johnson, RRT, TSRC Representative, presented a proposal to be made to the Emergency Medical Services Board regarding the training of EMS

personnel who transport ventilator patients. After discussion, Mr. Gantt made a motion seconded by Mr. Major to defer action until the Board has had an opportunity to review the proposal in depth as well as review the American Association of Respiratory Care (AARC) position statement regarding ventilator transports. The motion carried. Ms. Partee will send the AARC position statement to all Board members. This discussion is to be placed on the agenda of the next board meeting.

- B. Number of Distance Continuing Education Hours Allowed**—Charlie Brooks, RRT has requested that the Board consider revising the requirement that five (5) of the ten (10) continuing education hours required each year be face to face due to present day technology. A task force comprised of board members, a TSRC representative and Charlie Brooks was formed to meet one hour before the next scheduled meeting in February to discuss the issue and make recommendations.
- C. National Board of Respiratory Care (NBRC) Credential Requirement for Arterial Blood Gas Analysis**—There is some debate as to whether NBRC membership should be required to be maintained after initial licensure. While it is not specified for all licensees, a current NBRC credential is required in order to be credentialed to perform arterial blood gas (ABG) analysis. The Board is considering a rulemaking hearing to require all licensees to have a current NBRC credential. Mr. Gantt made a motion seconded by Mr. Major to direct the administrative staff to do a one hundred (100%) audit of all licensees licensed after July 1, 2002 who have the ABG endorsement to see if they have a current NBRC credential. The motion carried. The NBRC is to be contacted to obtain a list of Tennessee's current members which is to be cross referenced with active licensees since 2003 that have ABG endorsement. Respiratory therapists are to be notified by post card that according to the rules pertaining to the practice of polysomnographic services a current ABG credential must be maintained.
- D. Capillary Blood Gas Testing/Analysis By Polysomnographers**—Lebonheur Pediatric Sleep Disorders Center in Memphis asked the Board of Medical Examiners for an Advisory Opinion as to whether or not a polysomnographic technologist could perform capillary blood gas tests. The BME opinion states that while capillary blood gas analysis does not fall within the scope of practice for a polysomnographic technologist or technician as specified in T.C.A. §63-31-101, there is nothing that would prevent delegation of such duties by a physician to a licensee who has been appropriately trained in the necessary specimen collection and procedures with the supervising physician taking responsibility for ensuring that the delegate is sufficiently trained to perform those functions. The Board of Respiratory Care disagreed with this opinion. Ms. Partee will attend the next BME meeting to convey the Board of Respiratory Care's concerns regarding delegating capillary blood gas analysis to polysomnographers.
- E. Criminal Background Check Length of Validity**—All applicants for initial licensure are required to have a criminal background check before being licensed. Per the current practice, the CBC is valid until the applicant is licensed or until the application expires, whichever comes first and the CBC is not valid after one year. When in the case of dual licensure applicants, the Board will accept the CBC information submitted to another board if the CBC is no older than six (6) months. If older than six (6) months, the applicant would be required to submit a new CBC. The Board was asked to either approve the continuation of this practice or

to suggest another policy. Mr. Gantt made a motion seconded by Mr. Major to continue the current practice. The motion carried.

Ratifications

Mr. Davis made a motion seconded by Mr. Gantt to approve the following lists of initial and reinstatement applicants for registered respiratory therapist licensure . The motion carried.

REGISTERED RESPIRATORY THERAPISTS

NEW LICENSES

MOBENAH HASSAN ABOUBEID
CHARLES MICHAEL ADAMS
TAMMY AMELIA APPLEBY
LADAN A. AWIL
MARIAM M. BABIRY
KRISTEN TAYLOR BAKER
DYLAN JAE BARRETT
STEVEN MICHEL BOUFFARD
CARROLL S. BREEDEN
BRITTANY BOUNDS BURRIS
CHRISTOPHER LARKIN COOLEY
WENDELL EARL CORUM
TIFFANY BENEFIEL CROUCH
JOHN TYLER CURRIN
CASANDRA MOORMN DODSON
JOSEPH DAVID LEE ELLIOTT
CANDIS SHALEE GERHART
JOSEPH B. GILBERT
ANGELA RENAE GUERRERO
CHRISTINE SORENSEN HAMILTON
DANIELLE JORDAN HAMPTON
WENDY WADE HARDWICK
JESSICA STALEY HEARD
GALINA ZHURAVLEVA HESTER
HEATHER LEA HIGGINBOTHAM
SHAUNCIE RENEE HOFFARTH
ASHLEY CANTESE HORTON
JOHNAE MICHELE HOWARD
SARAH DANIELLE HUGHES
KATHLEEN JOHNSON JARRETT
ASHLEY BENFIELD JOHNSON
SHANNON ROCHELLE JUDGE
JASON MATTHEW KIMMEL
MEGAN NICOLE LAFUZE
BRANDON THOMAS LESLIE

JENNIFER DAWN LOPEZ
SONDRA LATOYA MACKEY
JENNA CHRISTINE MARIANO
CONNIE GRAY MATHIS
TRENT DENNIS MAXFIELD
PAULA SUZETTE MCDANIEL
SANDY THYER MCMASTERS
CATHY RENAE MOSIER
JENNIFER LYNNE MYERS
JENNIFER SHERRELL NICELY
KIMBERLY SPEEGLE PATRICK
AMANDA MARIE PURTLE
REGINA PAULETTE PYLE
KRISTINA RENEE RANDOLPH
JOSEPH NEAL RILEY
KIMBERLY ANN RUCH
MICHELLE HARRIS RUTH
ANTHONY CORY SAMPLES
CALISTA JUNE SILVERMAN
KAREN BEATA SIMMONS
KENDRA SHUNTAY SLATER
PAUL DAVID SMITH
SHANNON MOREHEAD SMITH
LISA WALLACE STAUFFER
MARK TIMOTHY SWEITZER
PATRICIA A. VORHAUER
AMANDA MARIE WALLS
LINDA CALHOUN WALSEN
JEREMY WAYNE WENTZEL
PAMELA VINYARD WHEELER
CARRIE PABE WHITEN
NICHOLE LEEANN WOODS
TONI MICHELLE WOODS
ELIZABETH WALTES WOOLRIDGE

REINSTATEMENTS

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MARVIN LEE ALES
STEVEN R. CHAUCER
JOHN DAVID KAISER JR.
EVA N L'ECUYER
LJARA SUZANNE WYNN

POLYSOMNOGRAPHIC ENDORSEMENTS FOR REGISTERED REPIRATORY THERAPISTS

Mr. Cook made a motion seconded by Mr. Davis to approve the following licensees for polysomnographic endorsement. The motion carried.

MARVIN LEE ALES-----BRPT

Mr. Major made a motion seconded by Mr. Davis to approve the following lists of initial and reinstatement applicants for certified respiratory therapy licensure. The motion carried.

CERTIFIED RESPIRATORY THERAPISTS

NEW LICENSES

NATHAN ANDREW APPEGATE
ROSALYN PHILLIPS BASS
CHRISTA MICHELLE FLY
SAMMY S. FOISTER
AMANDA A. FOWLER
JOSHUA DANALYNN HELTON
BRITTAN HICOLE HENLEY
SOMMER RE JONES
KELLY DALE KEOUGH
TANYA COLLINS LEATHERWOOD
JOHN NIHOLAS LONG
LACY VICTORIA MCCULLOUGH
ANGELA MICHELLE MURRELL-JONES
CNSTANCE TURNER POLK

CHRISTINE MARIE PORTER
TERESA ANNETTE RAMBY
KIMBERLY ANNE REED
BENJAMIN THOMAS ROARK
MEAGAN CLINTON ROBERTS
SULTAN TARIK SHANDON
LATISHA SHANTRELL SIMS-BROWN
ANA LISA PENGSON SINGLALAWA
SANDRA K. SPURLOCK
JESSICA COOK STEELE
CRYSTAL DANIELLE TURNER
MICHELE D. WHITE
PATRICIA A. WILLIAMS

REINSTATEMENTS

MARK THOMAS BELCHER
REBEKAH ANN LASHA CAMPBELL
GENNIFER SHEAD MCCULLOUGH
SANDRA L. SMITH
JUDITH HALE WILSON

POLYSOMNOGRAPHIC ENDORSEMENTS FOR CERTIFIED THERAPISTS

Dr Mack made a motion seconded by Mr. Cook to license the following certified respiratory therapists for polysomnographic endorsement. The motion carried.

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ERIC GLOVER—BRPT
LATISHA SIMS-BROWN—3RD PATHWAY
TAMELA THOMPSON—3RD PATHWAY
CORSSILA BROWN—3RD PATHWAY

Administrator's Report

As of October 31, 2011 the numbers of active licensees were:

- RRT—2813
- CRT—1739
- RCA—19

Board activity totals from August 6, through November 7, 2011

RRT	CRT
New licenses—69	New licenses—27
Reinstated—5	Reinstated—5
Retired—10	Retired—10
Failed to Renew—28	Failed to Renew—40

495 practitioners renewed during this period with 325 renewing online.

Board Members

All positions are currently filled.

Financial Report

As of June 30, 2011, direct expenditures were \$93,000.40 and revenue collections during this period were \$370,624.29. Indirect expenditures have not been finalized.

Election of Officers

The Board elected Candace Partee as Chair and Roger Major as Secretary of the Board for 2012.

2012 Board Meeting Dates

Mr. Davis made a motion seconded by Dr. Mack to approve the following dates for board meetings in 2012. The motion carried.

February 2
May 31

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August 30
November 15

Adjournment

There being no further business, the meeting was adjourned at 1:00 p.m.

These minutes were ratified at the March 30, 2012 meeting.